KAMALA D. HARRIS Attorney General of California 2 KAREN B. CHAPPELLE Supervising Deputy Attorney General 3 RANDY M. MAILMAN Deputy Attorney General 4 State Bar No. 246134 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 5 Telephone: (213) 897-2442 6 Facsimile: (213) 897-2804 Attorneys for Complainant 7 BEFORE THE 8 **BOARD OF REGISTERED NURSING** DEPARTMENT OF CONSUMER AFFAIRS 9 STATE OF CALIFORNIA 10 Case No. 2012-23 In the Matter of the Statement of Issues 11 Against: 12 MA. CAROL DINO PONCE 5621 Craner Avenue STATEMENT OF ISSUES 13 North Hollywood, CA 91601 Applicant for Registered Nurse License 14 Respondent. 15 16 Complainant alleges: 17 **PARTIES** 18 Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely in her official capacity as the Executive Officer of the Board of Registered Nursing, Department 19 20 of Consumer Affairs. 21 On or about March 9, 2011, the Board of Registered Nursing, Department of 22 Consumer Affairs received an application for a Registered Nurse License from Ma. Carol Dino 23 Ponce ("Respondent"). On or about February 4, 2011, Ma. Carol Dino Ponce certified under 24 penalty of perjury to the truthfulness of all statements, answers, and representations in the 25 application. The Board of Registered Nursing ("Board") denied the application on May 6, 2011. 26 /// 27 /// 28 ///

JURISDICTION

3. This Statement of Issues is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

STATUTORY PROVISIONS

- 4. Section 480 of the Code states, in pertinent part, that:
- "(a) A board may deny a license regulated by [the Business and Professions Code] on the grounds that the applicant has one of the following:
- (1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of *nolo contendere*. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.
- (3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.
- (B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made."
 - 5. Section 2761 of the Code states, in pertinent, part that:
- "The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:
 - (a) Unprofessional conduct.
- (f) Conviction of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

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REGULATORY PROVISIONS

9. California Code of Regulations, title 16, section 1444, provides:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare.

Such convictions or acts shall include but not be limited to the following:

- (a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of <u>Penal Code Section 11160</u>.
- (b) Failure to comply with any mandatory reporting requirements.
- (c) Theft, dishonesty, fraud, or deceit.
- (d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code."

FIRST CAUSE FOR DENIAL

(Conviction of a Substantially Related Crime)

- 10. Respondent's application for licensure is subject to denial pursuant to section 480(a)(1) of the Code, as defined by California Code of Regulations, title 16, section 1444, in that Respondent was convicted of a crime substantially related to the qualifications, functions, and duties of a licensed Registered Nurse, as follows:
- 11. On or about March 22, 2007, in the criminal matter entitled *People v. Ma. Carol Ponce*, Los Angeles County Superior Court case no. 7CA05459, Respondent entered a plea of no contest to a violation of California Penal Code section 242, battery, a misdemeanor. Respondent was placed on probation for two years and was ordered to perform ten days of Caltrans labor, pay a restitution fine, and stay away from the victim. The basis for the conviction is as follows:
- 12. On or about January 29, 2007, Respondent attacked a female whom she suspected was having an intimate relationship with her boyfriend. The female sustained injury to her neck, chest, head, and right wrist as a result of Respondent repeatedly punching and hitting her.

SECOND CAUSE FOR DENIAL

(Performed an Act that Would Warrant Discipline of Licensee)

13. Respondent's application for licensure is subject to denial pursuant to sections 480(a)(3) and 2761(a) and (f) of the Code, as defined by California Code of Regulations, title 16, section 1444, in that Respondent performed an act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of the license. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 11 and 12, as though set forth fully.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Denying the application of Ma. Carol Dino Ponce for a Applicant for Registered Nurse License;
 - 2. Taking such other and further action as deemed necessary and proper.

DATED: 7-13-11

OUISE R. BAILÉY, M.ED., RN

Executive Officer

Board of Registered Nursing

Department of Consumer Affairs

State of California

Complainant

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